

Minutes of Special and Regular Meeting of March 24, 2009

## **SPECIAL MEETINGS**

### **CLOSED SESSION - 6:15 P.M.**

- A. Conference with Real Property Negotiator Crist pursuant to Government Code Section 54956.8: Two Parcels, APN's 045-162-070 and APN 045-163-070
- B. Conference with Labor Negotiator, Jack Crist, pursuant to Government Code Section 54957.6: MMCEA
- C. Conference with Legal Counsel pursuant to Government Code Section 54956.9, Anticipated Litigation, Significant Exposure to Litigation: One case Claim of Schoening et al. re Marburger Road
- D. Conference with Legal Counsel pursuant to Government Code Section 54956.9(a), Existing Litigation, Belmont v. Murphy

Attended by Councilmembers Feierbach, Wozniak, Braunstein, Dickenson, Lieberman, City Manager Crist, City Attorney Zafferano, Community Development Director de Melo, Finance Director Fil, City Engineer Borrmann, Police Chief Mattei, and Human Resources Director Dino. City Clerk Cook was excused from attending.

**ADJOURNMENT** at this time, being 7:40 P.M.

**Terri**

**Cook**  
**City Clerk**

This meeting was not tape recorded or videotaped.

### **REGULAR MEETING – CALL TO ORDER 7:43 P.M.**

#### **ROLL CALL**

COUNCILMEMBERS PRESENT: Feierbach, Dickenson, Lieberman Wozniak, Braunstein

COUNCILMEMBERS ABSENT: None

Staff Present: City Manager Crist, City Attorney Zafferano, Community Development Director de Melo, City Engineer Borrmann, Finance Director Fil, Police Chief Mattei, Parks and Recreation Director Gervais, City Treasurer Violet, City Clerk Cook.

#### **PLEDGE OF ALLEGIANCE**

Led by Police Office Recruits Jordan and Armanino.

#### **REPORT FROM CLOSED SESSION**

City Attorney Zafferano reported that Closed Session Item B (Labor Negotiations) was the only matter taken up during the earlier Closed Session, and there were no reportable actions. He noted that the other items would be continued to another date.

## **SPECIAL PRESENTATIONS**

### **Oath of Office of new Police Officer Recruits**

Police Chief Mattei announced that former Police Officer Bill Banks passed away recently. He also spoke regarding the recent killing of the four officers in Oakland.

Police Chief Mattei introduced the newest members of the Police Department, Officers Chris Armanino and Milana Jordan. He described their success at the Police Academy, and noted that their recruitment is part of the succession planning for the next generation of leadership in the Belmont Police Department.

City Clerk Cook administered the Oath of Office, and their badges were pinned.

### **Annual Police Department Awards**

Police Chief Mattei made the following Police department awards:

Employee of the Year, Dave Asher, Community Service Officer  
Officer of the Year, Dave Lashley  
Dispatcher of the Year, Jennifer Fredstrom  
Volunteer of the Year, Manny Padia

Mayor Braunstein congratulated all of the award winners.

## **PUBLIC COMMENTS AND ANNOUNCEMENTS**

**Raymond Loya**, Belmont Senior Club/AARP, introduced himself and noted that he would be attending Council meetings on behalf of the Senior Club.

**Gladwyn D'Souza**, Belmont resident, thanked the Infrastructure Committee for holding the special meeting recently to address the Alameda de las Pulgas restriping. He noted that Police Chief Mattei provided accident data, and he commented that driving behaviors need to change in order to make it safer for pedestrians and bicyclists. There are five schools in the vicinity. He reviewed the issues that were addressed at the meeting, including the options presented for changes. He recommended that the Infrastructure Committee review costs for all the long-term options for solutions.

**Joe Guenther**, Belmont resident, inquired regarding the water quality and level at Waterdog Lake. He stated this is an urban gem that needs to be restored.

City Manager Crist responded that staff is already investigating Mr. Guenther's concerns.

## **COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS**

Councilmember Lieberman announced that Belmont-San Carlos Firefighter Mark Wey has been promoted to Captain, and he was named firefighter of the year.

Mayor Braunstein announced that the Mayor's State of the City address would be held on March 31<sup>st</sup>. He also announced upcoming events sponsored by the Parks and Recreation Department, including the Egg Hunt and the Earth Day celebration.

### **AGENDA AMENDMENTS**

Mayor Braunstein announced that New Business Item 7-A (Discussion and Direction on Sewer Rate Analysis and Action Plan for Sewer Rate Increase) would be considered immediately following the Consent Agenda.

Councilmember Dickenson requested the removal of Consent Item 4-B (Written Communication), and Mayor Braunstein requested the removal of Consent Item 4-D (Resolution Authorizing the Belmont Police Department to Increase Municipal Code Parking Violation Fines) from the Consent Agenda for separate consideration.

### **ITEMS APPROVED ON CONSENT CALENDAR**

**Approval of** Minutes of Special and Regular Meeting of February 10, 2009

**Motion** Accepting FY 2009-10 Budget Calendar

**Approval of** Resolution 10103 Amending the FY 2009 Budget and Approving a Revision to Revenue and Supplemental Appropriation

**Approval of** Resolution 10104 Approving Plans and Specifications, Authorizing Advertisement for Sealed Bids, Approving Award of Contract to the Lowest Responsible Bidder for an Amount up to \$600,000, Approving a 10 Percent Construction Contingency, Authorizing the City Manager to Execute a Contract, and Allow Lane Closures and Construction Work on Sixth Avenue, Carlmont Drive and Hallmark Drive from 7AM to 5PM for the 2009 Belmont Overlay, City Contract Number 502

**ACTION:** On a motion by Councilmember Dickenson, seconded by Councilmember Wozniak, the Consent Agenda was unanimously approved, as amended, by a show of hands.

### **ITEMS REMOVED FROM CONSENT CALENDAR FOR SEPARATE CONSIDERATION**

**Written Communication: PUC Notification for various PG&E Tariff Requests (Photovoltaic, Catastrophic Event Costs, 2009 Rate Design Window, Pension Contribution)**

Councilmember Dickenson stated that he removed this item from the Consent Calendar to draw attention to PG&E's request for additional tariffs.

**ACTION:** On a motion by Councilmember Dickenson, seconded by Councilmember Lieberman, Written Communication (PUC Notification for various PG&E Tariff Requests) was unanimously approved to be filed by a show of hands.

Councilmember Wozniak expressed concern regarding the cumulative effect of these tariffs.

Councilmember Dickenson expressed his desire to post these notices to the City's website. He stated that Council may wish to discuss and protest the tariff.

City Clerk Cook clarified that Council's approval on this item was to file the notice, not to support the tariff request.

**Resolution Authorizing the Belmont Police Department to Increase Municipal Code Parking Violation Fines**

Mayor Braunstein expressed concern that the delay in setting new fines has resulted in lost revenue. He questioned why the City was not notified earlier of the surcharge so that fees could be adjusted earlier. He also expressed concern that some of the individual fees were not being raised to a level that would prevent subsidy.

Police Lieutenant Daley stated that the surcharge became effective on January 1<sup>st</sup>. Staff is still sorting out this issue, as there is some confusion as to where the funds were going. Most of the parking fees were being raised \$10 or higher, and the new fees are comparable to other cities.

Discussion ensued regarding details of the parking fees.

Police Chief Mattei suggested that the Council address parking fees again at budget time.

**ACTION:** On a motion by Councilmember Dickenson, seconded by Councilmember Wozniak, Resolution 10105 Authorizing the Belmont Police Department to Increase Municipal Code Parking Violation Fines was unanimously approved by a show of hands.

**NEW BUSINESS (taken out of order)**

**Discussion and Direction on Sewer Rate Analysis and Action Plan for Sewer Rate Increase**

City Engineer Borrmann provided a cost analysis for the maintenance and improvement of the sewer collection system. She noted there is a need to comply with State and federal regulations, and that the system is audited annually. She described the master planning that has been done on the system, and she commented that rehabilitation reduces annual maintenance costs and prevents overflows. She described the recent revisions made to the rate methodology, and that same method is being proposed for the 2009-10 rates. The Infrastructure Committee has reviewed this matter.

**John Farnkopf**, rate Consultant, clarified that the proposed rates are to pay for operations and not the capital project for building the new plant. He reviewed the expense allocations, and noted that some capital projects have been postponed in order to keep the increase at a lower amount. He noted that the first payment is due for the 2006 bond at the South Bayside System Authority (SBSA), and it is recommended this come from Belmont's bond proceeds as a reimbursement.

Mr. Farnkopf provided a multi-year projection of rates for the next several years and the effect they would have on fund balances. He noted that nearly 90 percent of the revenue for the sewer system comes from rate payers. He clarified that because people have been conserving water, a 9 percent raise in rates only results in a 6.7 percent increase in total revenue. He clarified that this is consistent with last year's projection, but is lower than previous year's projections.

Mr. Farnkopf suggested that the City Council consider implementing a multi-year rate increase structure.

Finance Director Fil outlined the Proposition 218 hearing process and timeline. The federal stimulus plan could be considered to help offset costs for the new treatment plant.

Councilmember Feierbach noted that people have been conserving water in order to reduce their sewer charges. Finance Director Fil responded that if consumption is less, they will benefit by a lower rate in the volumetric portion of the charge. Rates are proposed to be raised in all classes, and conservation helps reduce that rate for all.

Discussion ensued regarding rate increase details.

Councilmember Feierbach recommended postponing projects and using capital monies to offset the need for more money in operations. There may also be a need to review and modify the previously-approved projects. She noted that rates have doubled since 2000.

Finance Director Fil explained the components of the rates, and clarified that the bond debt service is driving the need for raising rates. Future bond issues could be delayed to help keep rates down, but this would result in necessary projects being delayed. He clarified that current capital projects are being paid from previous bonds that still need to be paid.

City Manager Crist stated that there was no capital program in 2000, and capital improvements were delayed.

Councilmember Lieberman stated that businesses have expressed concern regarding the new sewer charge, which is likely to be more than the sewer rates, especially for restaurants.

City Engineer Borrmann stated that repairs will be more expensive if the capital needs are not addressed.

Councilmember Wozniak expressed concerns regarding the use of water consumption as a component of the sewer rate structure.

Finance Director Fil responded that it is desirable for people to conserve water, as it addresses environmental concerns and has less impact which in turn reduces the cost to maintain the system. He reviewed previous rate methodologies and noted that the current method could be tweaked for the future. He added that the current system is equitable. He noted that the current rates include a rate stabilization fund and maintains reserves.

Discussion ensued regarding rate projections.

Councilmember Feierbach stated that there is a need for rate equity for those who conserve water.

**Gladwyn D'Souza**, Belmont resident, stated that bond sales require future rate increases. He recommended consideration of a tiered price system rate model. He noted that streets put a demand on the system and increase costs. Distance from the treatment plant should be a

component of the rate structure. Irresponsible development affects operating costs. There are other ways to manage and treat sewage in different watersheds.

**ACTION:** Councilmember Lieberman made a motion, seconded by Councilmember Braunstein, to approve the rate report and action plan as proposed.

Councilmember Dickenson expressed concerns that personnel increases have been built into the plan. There is a need to control costs. He noted that some rate increase is necessary. He does not want to borrow into the future.

Councilmember Feierbach stated that there is a need to pay the debt service and build a new treatment plant. She does not want to increase rates for those who conserve water.

Councilmember Wozniak expressed the desire to achieve pay-as-you-go. Water use is going down and people are composting. New technology may soon be available and we may be building infrastructure that may not be needed. There may need to be a third element built into the rate structure. She cannot support the motion.

Councilmember Lieberman commented that if people conserve, they will pay less. He did not support the current rate methodology when it was changed to the current system. He noted that at that time the City Council made a policy decision that low-flow users were not paying enough. Tiered pricing may be worth looking at for the future. He expressed concerns about delaying planned capital projects. If rates are not raised now, it may result in the need to raise them higher in the future, which could affect bond sales. He commented that a 9 percent raise might seem distasteful, but it is the responsible thing to do.

Mayor Braunstein stated that the proposed rate utilizes the model that was approved by the City Council. If that model does not work, it can be changed. Maintenance of the system needs to be sufficient to prevent problems.

Councilmember Dickenson stated that he voted for the current rate model, as it was the responsible thing to do at the time. Staff sharpens its pencil when asked. He voted against the bonds. There is a need to cut costs and change how water is diverted.

Councilmember Feierbach stated she supported the bonds in 2007, but the economy has changed since then. She supports a rate increase that pays the bond costs only.

Finance Director Fil clarified that the Proposition 218 process outlines the maximum rate that can be charged. He suggested directing staff to look into the issues raised this evening and how it might affect the rates, including adding a third component to the rate structure.

**ACTION:** Councilmember Dickenson made a substitute motion, seconded by Councilmember Feierbach, to refer this matter to the Infrastructure Committee to look into ways to restructure the rate to achieve pay-as-you-go and to seek a conservation component, to address necessary SBSA costs, and to direct that no future bonds be issued.

City Manager Crist stated that the rate model has changed twice in the past three years, and there is never a best method. Using just a volumetric component was volatile and hard to predict, and the current method is much more predictable. Consistency is important. He recommended leaving the current rate method in place. Level of service on the system is good.

Councilmember Feierbach stated that the current model is sufficient, and the issue is the economy. She is concerned about the affect of higher rates on all segments of the population. There is a need to lower costs. SBSA should have taken care of deferred capital projects years ago but one member agency always voted it down. SBSA has little or no reserves.

Councilmember Dickenson expressed a desire to achieve pay-as-you-go and to manage personnel costs. There is a need to meter the output for high-end users. Someone is always being subsidized. He would like to maintain and increase the reserves and he does not want to defer maintenance.

Discussion ensued.

Councilmember Lieberman expressed concern that pay-as-you-go may result in higher rates than what is proposed, and may be higher than issuing future bonds.

**ACTION:** On the substitute motion by Councilmember Dickenson and seconded by Councilmember Feierbach, which motion carried by a show of hands (Lieberman, Braunstein no).

**Resolution Regarding the City of Belmont's Intention to Issue Tax-Exempt 2009 Sewer Treatment Facility Revenue Bonds (Authorization Reimbursing Qualifying Sewer Treatment Facility Expenditures in Advance of Bond Sale)**

Finance Director Fil stated that this resolution would authorize the use of the unused balance of the 2006 sewer revenue bonds to pay for Belmont's share of the initial invoice from the South Bayside Systems Authority for work done to date on the new facility.

Councilmember Feierbach stated that she only wants to pay for Belmont's share of this facility, and not the share for any other agency. She noted that West Bay Sanitary has veto power over certain issues, and often exerts that power to vote against important projects.

Councilmember Lieberman stated that this resolution is solely for Belmont's share. Discussions are under way regarding the allocation of the entire facility costs to all member agencies. The issue before the Council this evening is not affected by the voting power.

**Loring De Martini,** The Van's Restaurant, stated that Belmont has many good and diverse restaurants. He appreciates that the City Council cares about costs to businesses in Belmont. He does not understand the concept of pay-as-you-go and how it affects rates. Now is not the time to raise any rates. Businesses are fighting to stay afloat. He supports sharpening pencils as a way to lower the increase in rates, and noted that it appeared that increases were for payroll and pension improvements. People are working harder for less. There should be no fear tactics for describing why rates need to be raised.

Mayor Braunstein responded that the City Council has had previous presentations regarding the need for the capital project. It is a critical need.

**Kaveh Abbaszadeh**, Iron Gate Restaurant, stated that it is currently a tough economy. Restaurants are bearing the burden of a higher rate structure. He recommended applying a formula of square feet for the new rate rather than the proposed formula. The new plant will be used by all, so all should pay the same. The rate would drop if the use of the property changes.

Councilmember Lieberman reviewed the proposed 9 percent increase and how it would affect various ratepayers. Residences are different from businesses. He clarified that there was no intent to invoke fear tactics.

**ACTION:** Councilmember Feierbach made a motion, seconded by Councilmember Dickenson, to continue this matter to the next meeting in order to clarify the veto issue among the SBSA member agencies.

Councilmember Lieberman noted that Belmont is legally obligated to pay the proposed bill. He expressed concern regarding how this will affect ongoing discussions at SBSA.

**Dan Child**, SBSA General Manager, stated that this is not an issue to defer, as interest will continue to accrue. He noted that West Bay Sanitary has concerns regarding the voting power of the member agencies as well, and the JPA should probably be amended. It is not a simple process.

**ACTION:** On the original motion to continue this item, said motion unanimously approved by a show of hands.

**MEETING EXTENSION** at this time, being 10:25 P.M., on a motion by Councilmember Dickenson, seconded by Councilmember Wozniak, the meeting was unanimously extended by 30 minutes.

**RECESS:** 10:25 P.M.  
**RECONVENE** 10:33 P.M.

## **OLD BUSINESS**

### **Annual Review of Council Priority Calendar - Step Two: Ranking the Projects**

Executive Assistant Stallings noted that this was the second in a three-step process to set the Council's priorities for various projects. Clarification regarding some of the projects has been provided, and there are 13 new projects to rank.

Community Development Director de Melo described some of the highest priority items from his department as discussed by the Planning Commission. He noted that the Commission frequently addresses issues related to lot coverage and hardscape. There is also an issue related to parking in front yards, including circular driveways.



Discussion ensued regarding clarification and timelines for some of the proposed projects for the Community Development Department.

**Chuck Rinaldi**, Belmont resident, stated that he has an issue regarding the ordinance regulating circular driveway. He noted that there are always new issues, and the old issues should be taken care of before new ones are considered. He feels this would be an easy ordinance to change.

Mayor Braunstein stated that Community Development has a long project list for which the City Council needs to be aware. He noted that all of the projects are important.

Ranking sheets were distributed.

This matter was continued to later in the meeting, when the project rankings would be compiled.

**Continued Discussion and Direction Regarding Amendments to Chapter 8.5, Campaign Contributions (continued from 1/27/09)**

City Clerk Cook stated that she met with the Council subcommittee members Wozniak and Dickenson to review the various issues discussed at the January 27<sup>th</sup> meeting regarding campaign contributions. The subcommittee reviewed information from other California cities' ordinances. She outlined the consensus items that had been reached at the January discussion on this matter, and the policy areas still remaining.

Councilmember Wozniak stated that the subcommittee concurred that the reporting thresholds should match those at the State level. The committee also recommends raising the individual contribution level to \$250, and as a way to underscore the desire to maintain the small-town atmosphere, it recommends prohibiting contributions from businesses or organizations.

Discussion ensued regarding anonymous contributions.

City Clerk Cook stated that free speech issues could be raised if Council desires to prohibit anonymous contributions. She also noted that a complete prohibition could present logistical issues for candidates holding fundraising events and making a basket available for contributions.

Council concurred to limit anonymous contributions to \$50 per individual, accumulated total of \$250. It also concurred with the subcommittee's recommendation to raise the individual contribution limit to \$250 and prohibit contributions from businesses and organizations. City Clerk Cook clarified that this includes a prohibition of contributions from political action committees.

City Clerk Cook noted that a draft ordinance would be scheduled for a future hearing for introduction of a revised ordinance. She clarified that it was planned that the revised ordinance would be in full force and effect in time for the start of the candidate filing process in mid-July.

**MEETING EXTENSION** at this time, being 11:00 P.M., on a motion by Councilmember Dickenson, seconded by Councilmember Feierbach, the meeting was unanimously extended by 30 minutes.

### **Discussion and Direction Regarding High Speed Rail**

City Manager Crist stated that this item is a result of an Item 9 from a previous meeting. Cities in San Mateo County have been asked to form a consortium group to address the issues surrounding the proposed high-speed rail project.

Councilmember Wozniak summarized the discussion that took place at a meeting she attended with regard to cities having power as a group over this large project. The issue is how high-speed rail will affect cities on the Peninsula. She noted that even with a consortium in place, cities can still take individual policy positions regarding the project. She supports joining the consortium.

**Gladwyn D'Souza**, Belmont resident, stated that transit is always built with other people's money, including taxes. Systems are unsustainable. High-speed rail is intended to be sustainable through fares. He noted that Hong Kong's rail system is profitable. He supports joining the consortium to address land-use issues.

Council concurred to join the Coalition of Cities consortium regarding high-speed rail.

### **Annual Review of Council Priority Calendar - Step Two: Ranking the Projects (cont).**

Executive Assistant Stallings outlined the rankings of the 13 items in Community Development, and the two projects in the Police Department. She clarified that staff will review the items and will advise how many will be able to be managed during the next fiscal year, and the priority calendar will be presented for approval at the April 28<sup>th</sup> meeting.

In response to Councilmember Dickenson, City Manager Crist clarified that code enforcement will be addressed separately in an upcoming report to the City Council.

### **Information Regarding a City Electric Utility System**

Special Projects Manager Mittelstadt stated that staff performed research on the potential for the City of Belmont forming its own electric utility system as a result of direction from the City Council. He outlined the four options available for accomplishing this. He noted that advantages include local control, potential stabilization or reduction of electricity costs, and reduction of response times when problems arise. Disadvantages include risk, creation of a new bureaucracy, need to secure capital equipment from PG&E, the costs to acquire a facility, small-size economy of scale, staffing needs, and the fact that PG&E has many resources to oppose such a program.

Special Projects Manager Mittelstadt noted that someone with great expertise would be needed to undertake this matter, and this should be approached with great caution. He clarified that PG&E was contacted and information received in preparation of the staff report.

**Gladwyn D'Souza**, Belmont resident, concurred that the City should proceed with caution. PG&E has many resources. Some policy issues could be addressed through legislation. He supports the posting of tariff notices on the City's website.

Councilmember Dickenson recommended the formation of a Utility Sustainability Task Force. PG&E is a formidable utility. The County is interested in renewable energy. Belmont has

experienced power outages due to substandard facilities. He noted that Belmont has the ability to undertake this concept. He described the issues surrounding the City of Davis's proposal for selling electricity back onto the grid, and noted that legislation was introduced in order to facilitate this. He supports pursuing this idea in some fashion as a way to protect ratepayer money.

Councilmember Wozniak expressed support for pursuing solar power as one source of power that can be separate from PG&E.

**MEETING EXTENSION** at this time, being 11:30 P.M., on a motion by Councilmember Dickenson, seconded by Councilmember Feierbach, the meeting was unanimously extended by 30 minutes.

Council discussion ensued, and Council concurred to forward this issue to the Green Advisory Committee for further discussion and consideration.

## **COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS**

### **Verbal report from Councilmembers on Intergovernmental (IGR) and Subcommittee Assignments**

Councilmember Wozniak stated that the Green Advisory Committee would be meeting on March 25<sup>th</sup>. There was good feedback provided regarding the Alameda de las Puglas restriping issue at the special Infrastructure Committee meeting held recently. She reported on issues discussed at the last C/CAG meeting, and noted that Commute.org has provided commute option brochures to City Hall.

Councilmember Feierbach noted that the lunch program was discussed at the Senior Advisory Committee meeting held recently. Participation has dropped off and the program needs to be revitalized. She reviewed other activities provided to seniors.

Councilmember Dickenson stated that the Silver Sentinal Emergency Exercise was held recently.

Mayor Braunstein noted that he met recently with Supervisor Rose Jacobs Gibson.

### **Verbal Report from City Manager**

City Manager Crist stated that the special Infrastructure Committee meeting was constructive. He commented that he is still seeking options on how to thank the City of Foster City for its donation of unused Rule 20A funds for Belmont's undergrounding project.

## **MATTERS OF COUNCIL INTEREST/CLARIFICATION**

### **Consideration of Resolution Supporting Employee Free Choice Legislation (Feierbach)**

Councilmember Feierbach noted that she would continue this item, due to the lateness of the hour.

**ADJOURNMENT** at this time, being 11:30 P.M.

**Cook**  
**City Clerk**

**Terri**

Meeting Tape Recorded and Videotaped  
Audio Recording 723